

March 15, 2016

LOS ANGELES FIRE DEPARTMENT



RALPH M. TERRAZAS
FIRE CHIEF

March 3, 2016

BOARD OF FIRE COMMISSIONERS
FILE NO. 16-029

TO: Board of Fire Commissioners

FROM:  Ralph M. Terrazas, Fire Chief

SUBJECT: ARSON COUNTER-TERRORISM AUDIT REPORT UPDATE

FINAL ACTION:	<input type="checkbox"/> Approved	<input type="checkbox"/> Approved w/Corrections	<input type="checkbox"/> Withdrawn
	<input type="checkbox"/> Denied	<input type="checkbox"/> Received & Filed	<input type="checkbox"/> Other

SUMMARY

In December 2014, the Office of the Independent Assessor (OIA) completed an audit of the Arson/Counter Terrorism Section (ACTS) and reported its findings to the Board of Fire Commissioners (Board). The audit was conducted to assess the status of recommendations made during the 2008 LAPD audit, assess the quality of ACTS investigations, and determine background and training standards. On December 15, 2015 ACTS presented a status report to the Board on progress regarding the audit.

RECOMMENDATION

That the Board:

1. Approve this report.

DISCUSSION

By power of the City Charter, the LAFD has the authority to investigate all fires that occur within the City of Los Angeles. The LAFD has a signed Memorandum of Agreement with the Los Angeles Police Department stating that "the Fire Department shall retain responsibility for all arson investigations, as well as any arson/insurance fraud occurring within the City, with the Police Department acting in a supportive role. When another crime is identified, i.e. arson/murder, the appropriate entity within the Police Department shall have the investigative authority."

In May 2014, the Office of the Independent Assessor (OIA) began a review of ACTS. The OIA made several recommendations. The audit reinforces and supports actions currently in motion by ACTS supervision to address deficiencies and improve performance. Work addressing the audit had already begun and continues to fall in line with the recommendations in the audit report.

Listed below are the steps being taken to address each audit recommendation:

1. Update and maintain an Arson Procedures Manual.
 - Not complete: The Arson Procedures Manual was found to be in need of several updates. Progress is slow due to staffing shortages and a lack of subject matter experts (SME).
 - There are 23 Arson Procedure Bulletins (APB) used to provide structure and continuity to daily arson related activities. To date, all APB have been updated, revised or deleted. The following APB have been updated and are attached for the Board's consideration:
 - APB #13 – Investigation Reports; revised Feb 3, 2016
 - APB #14 – Quarterly Case Review; revised Feb 2, 2016
 - APB #16 – Wearing of Body Armor; revised Feb 2, 2016
2. Develop policies reflecting the responsibilities of first responders and ACTS investigators regarding engaging in activities that will lead to more thorough and complete investigations (i.e. crime scene preservation, canvassing for witnesses and surveillance cameras, obtaining contact information, and interviewing all witnesses).
 - Complete: ACTS has revised and posted the Arson Reference Guide. This information lists the criteria necessary when contacting the Arson Section.
3. Add "Canvassing for Witnesses" heading to Arson Procedure Bulletin #13.
 - Complete: The APB includes a heading titled "Canvassing and Witnesses".
4. Update Notification Protocols.
 - Complete: APB completed and approved.
5. Record (audio and video) and book into evidence suspect interviews.
 - Complete: APB #13 currently includes language that suspect interviews should be recorded (audio and video) and that the recordings should be booked into evidence.
6. Greater detail conducting in-person interviews with material and percipient witnesses.
 - Complete: All arson investigators trained regarding interview techniques to include adding language when not conducting in-person interviews.

7. Formalize partnerships with LAPD and/or other law enforcement agencies.
 - Complete: A thorough and collaborative process exists between the ATF and LAPD Major Crimes Detectives on LAFD arson related cases.
8. Adopt formal investigative training requirements and standards.
 - Complete: ACTS receives on-going training in the following areas: NFPA 921/1033, Use of Force training, Firearms, and Evidence Collection.
9. Supervisor approval on investigative reports ensuring accuracy and completeness.
 - Complete: ACTS supervisors are actively reviewing reports for accuracy. Areas of focus include adherence to policies, evidence preservation, witnesses, interviews, notifications, and case management.
10. Comply with 2011 Letter of Agreement (LOA); Psychological Evaluations.
 - Complete: Full compliance on this recommendation.
11. Ensure compliance with all LAPD policies related to firearms qualifications.
 - Complete: LAPD Use of Force Policy – Directive No. 1, Directive No. 5, and Special Order No. 36, LAPD Special Order No. 24 Qualification Schedule.
12. Ensure weapons qualifications standards including corrective action.
 - Complete: Arson Captains track, record and document all firearms training.

CONCLUSION

The OIA audit identified areas that require attention and, if implemented, will improve performance, reduce risk management concerns, and enhance accountability. ACTS supervision is working to address these recommendations to enhance investigative practices, improve the quality of work, and heighten the level of service ACTS renders to the community of Los Angeles.

ACTS has completed 11 of the 12 recommendations. Updating the Office Procedures Manual requires subject matter expertise that has been hindered due to staffing issues associated with long term vacancies and retirements.

Board report prepared by Robert W. Nelson, Commander, Arson-Counter Terrorism Section.

Attachments

Arson Procedure Bulletin



Bulletin #13 Revised 2/2/16

FIRE INVESTIGATION REPORTS

Format, Content and Procedures

To ensure uniformity and project professional appearance, investigators shall utilize the following format and headings when completing a Fire Investigation Report. The report shall be typed on letterhead that contains both the Los Angeles City Fire Department seal and the Arson Badge.

The following shall be included in all fire investigation and arrest reports. In addition, the headings preceded by an asterisk (*) shall be added to arrest reports. (Exception: F260 short form)

Case Synopsis – Brief summary of the case and what the reader will find in the report. Usually consists of a short paragraph and describes the circumstances of the fire in general.

Source of Activity – Date, time of dispatch (24 hour clock), name, serial number and assignment of who was dispatched, type of dispatch, address dispatched, and who requested.

Investigation – Time of arrival, address of the incident (corrected address when applicable), condition of fire (out or still in progress).

Give an overall description of the subject object (e.g. Two-story, center hallway apartment building, constructed of a wood frame with brick exterior, containing 24 units; 2017 Jaguar F-Type, two-door coupe, black, bearing California license plate# MINE; etc). Describe conditions as you observed them from the least to the most involved leading to the area/point of origin. Describe what actually burned focusing on an area/point of origin. Describe patterns/factors that substantiate the area/point of origin.

APB #13
Revised 02/16

Localize area/point of origin by using references within the structure, vehicle or wildland. Describe unique factors that may exist (trailers, devices, multiple fires. etc.). Obtain alarm company information (phone number, address, event log) and alarm status prior to fire incident. Ascertain if safety devices were present (smoke detectors, security bars, sprinklers etc.).

List the existence of any evidence observed that would tend to substantiate patterns of unique charring.

If multiple fires, describe each fire in detail on its own merit. Attempt to reference single/multiple fires using points of reference within a structure, vehicle or wild land. Establish if forcible entry was used and by whom (fire department, civilian, suspect). Determine point of entry and if authorized/unauthorized entry was made. Describe conditions (construction type, weather, etc.) that may have contributed to the fire or its spread. Determine if any additional crimes are present.

Formulate an opinion based on physical evidence utilizing one of the following criteria:

Accidental Fire Cause – Accidental fires involve all those for which the proven cause does not involve an intentional human act to ignite or spread fire into an area where the fire should not be. In most cases this classification will be clear, but some deliberately ignited fires can still be accidental. For example, in a legal setting, a trash fire might be spread by a sudden gust of wind. The spread of fire was accidental even though the initial fire was deliberate. When the intent of the person's action cannot be determined or proven to an acceptable level of certainty, the correct classification is undetermined. (2014 NFPA 921 Section 20.1.1)

Substantiate accidental fire cause by what existed at the area/point of origin. Describe problems that may have contributed to the fire. Establish the condition of the utilities. Eliminate multiple accidental causes, focusing on a single cause when possible.

Natural Fire Cause - Natural fire causes involve fires caused without direct human intervention or action, such as fires resulting from lightning, earthquake, wind, and flood. (2014 NFPA 921 Section 20.1.2)

Incendiary Fire Cause – An incendiary fire is a fire that is deliberately set with the intent to cause a fire to occur in an area where the fire should not be. (2014 NFPA 921 Section 20.1.3)

Establish incendiary cause through physical evidence at the scene. Describe in detail the patterns/factors that establish your incendiary cause. Substantiate multiple fires as being separate and distinct. Establish a negative corpus through methodical elimination of ALL accidental, natural and mechanical causes

APB #13
Revised 02/16

Undetermined Fire Cause - Whenever the cause cannot be proven to an acceptable level of certainty, the proper classification is undetermined as follows:

Undetermined fire causes include those fires that have not yet been investigated or those that have been investigated, or are under investigation, and have insufficient information to classify further. However, the fire might still be under investigation and the cause may be determined later with the introduction or discovery of new information.

In the instance in which the investigator fails to identify the ignition source, the fire need not always be classified as undetermined. If the physical evidence established one factor, such as the use of an accelerant, that evidence may be sufficient to establish an incendiary fire cause classification even where other factors such as ignition source cannot be identified. (2014 NFPA 921 Section 20.1.4)

Statements/Interviews - Identify where, when and how the interview took place, (at the scene, over the phone etc.) Obtain identification from witnesses to determine if they are who they say they are (CDL, employee ID card, passport, check cashing card, etc.). Determine where they can be located for an additional interview. Identify witnesses by last name throughout the report and their involvement with the fire (owner, victim occupant etc.). Write down witness statements exactly as they were given to you. Make sure questioning is complete and thorough.

***Arrest** – Denote name of arrestee, booking number, booking location and charge. Include suspect's statements and identify where and when the interview took place. Admonish when required (custody + interrogation). Use proper LAPD admonishment form and read verbatim, DO NOT ADMONISH FROM MEMORY, document form version. Use an interpreter when necessary; obtain name and identification of interpreter. When practical consider utilizing a digital audio or video recorder. Document the use of the recorder in your report. Book an unedited copy of the recording as evidence.

Supervisor Notification – Name the ACTS supervisor who was notified of the arrest and note the time.

***Injuries / Medical Treatment** - Document if suspect received treatment for injuries or medical reasons.

Photographs - Identify the photographer and cite the number of photographs taken.

Diagrams – Diagrams of a fire scene shall be required in the event of a fatality or a serious burn which may result in death. A diagram may be necessary at a complex/complicated fire scene where it would serve to bring clarity to the situation and/or make the incident more understandable. A diagram may be included at the discretion of the investigator or when suggested by a section supervisor when it would benefit the investigation. Consider utilizing personnel from Maps and Drafting for high profile or multi-fatality incidents. “NDTS” (Not Drawn To Scale), as well as the letter ‘N’ with an arrow indicating North should also be notated on the diagram.

Evidence - List all items of evidence separately. Give a physical description of the items collected and cite the location from where they were recovered. Indicate items to be analyzed and where the items will be sent. Attach Trace Unit Analysis Request and Analyzed Evidence Reports to your report.

Canvass – Note that a canvass was conducted for additional witness and/or evidence, and the results obtained.

Additional – Use when warranted. Include any information that may not have been appropriate under any other headings. Fatalities, injuries (civilian or firefighter), K-9 deployment, etc.

Conclusion – Render your opinion as to where and how the fire originated based upon your observations and the physical evidence present. Include information that substantiates your conclusion. Witness statements should support your determination and be included when bringing all facts together. When reporting an undetermined fire, use statements that support your conclusion.

***Court Information** – Names non-civilian witnesses and what they can testify to.

Case Status – Open, Open with follow-up, Inactive, Cleared with Arrest, Cleared Other and Closed.

Open Investigation is open

APB #13
Revised 02/16

<i>Open with Follow-Up</i>	Use for cases in which the investigation is continued past the preliminary report. In cases where there is an outstanding unserved arrest warrant. DA Reject for Further Investigation.
<i>Inactive</i>	Use for all cases that are presumed criminal for investigative purposes or undetermined and in which no further investigative progress is possible (no further leads, no arrests made, etc.).
<i>Closed</i>	Use for proven non-criminal or accidental matters only. Do not use criminal cases.
<i>Cleared by Arrest</i>	Use when: 1) There is an arrest of at least one viable suspect in your case and you <u>obtain a filing from either a DA or CA, or</u> 2) Your suspect is arrested on your arrest warrant, <i>or</i> 3) For Misdemeanors: Citation with date for court. FBI guidelines also permit certain types of juvenile cases that do not meet the above criteria to be considered CBA.
<i>Cleared Other</i>	Use when: 1) DA/CA Rejects other than those rejected for Further Investigation. (If reject is for Further Investigation the correct category is Open with Follow-up.), <i>or</i> 2) You have at least one identified/known suspect and the suspect's location is known, but circumstances beyond your or your agency's control prevent the arrest and prosecution of the offender. Example: Unabomber, suspect dies before arrest can occur, suspect institutionalized indefinitely, DA/CA declines to prosecute due to mental illness, number of cases already filed, <i>or</i> 3) You have juveniles that are referred to an outside agency, referred to SAFE or are counseled and released.

INVESTIGATIVE REPORT PROCEDURES

Investigation Report - Per ACTS policy, all preliminary investigation reports (F-260) should be submitted within 30 days of the date of assignment. This preliminary report need only establish the cause of the fire if known. Include initial witness interviews; a complete narrative report is not always necessary.

Accidental Fires - On incidents when the investigation reveals the fire is accidental or unintentional, the investigator is not required to complete a lengthy extensive report. A brief narrative should be entered in the Comments section of the F-260 that reflects the basis for their opinion. Statements obtained shall be entered in the Persons Involved section of the F-260. When possible, investigators should take photographs to assist and support their origin and cause determination.

Follow-up Reports - Per ACTS policy, follow-up reports are required every 30 days after the submittal and approval of the preliminary investigation report until the case is complete or placed in Inactive status. These reports should include any additional information acquired that is determined to be part of the case and/or progress that has been made.

If no additional information has been obtained or no progress has been made, then thought should be given to making the case *Inactive* or indicate in the report that additional information will be forthcoming.

Additionally, all current arrest warrants should be checked using the NECS system every 30 days to satisfy *Due Diligence*. An entry to the right of the incident address will appear on the weekly status sheet (follow-up) indicating a current warrant (WARR) is in the system. When the warrant has been served (suspect arrested) a follow-up report shall be completed updating the case status and detailing the relevant information of the arrest.

Approval of Reports - All reports including arrest reports, property reports, booking approvals, PCD's, trace and analyzed evidence requests shall be forwarded to the Senior Investigator or ACTS supervisors for approval and signature.

When it is impractical to obtain a signature from the Senior Investigator or ACTS supervisors, the use of a proxy signature may be used once the Senior Investigator or ACTS supervisor reviews the report. This may be accomplished by either emailing or faxing the report. When using the proxy signature the investigator shall sign the Senior

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Investigator's or ACTS supervisor's name along with their (investigator's) initials. This procedure may also be utilized to obtain the Senior Investigator or ACTS supervisor signatures for LAPD Investigative Reports and Property Reports.

The investigator also has the option of having an LAPD Watch Commander approve and sign LAPD related reports.

All original LAPD reports along with a copy of the Fire Investigation Report shall be forwarded to SRDU.

Arson Procedure Bulletin



Bulletin #14 Revised 2/2/16

QUARTERLY CASE REVIEW

In order to provide Investigators with guidance and additional perspectives on their cases, a quarterly case review will be instituted. The time of review will be coordinated by the Senior Investigator.

The case review process will consist of the Senior Investigator meeting with each Investigator on a one on one basis. The discussion of the case review will be centered on progress made to date, direction of the investigation, probability of a conviction vs. time expended, and suggestions for additional avenues to explore.

Newly assigned Investigators under the supervision of a Training Investigator will have the Senior Investigator and the Training Investigator present at the scheduled case review.

Per ACTS policy, the follow-up reports are due 30 days after the submittal and approval of the preliminary investigation report. Investigative reports with Open or Open with Follow Up status will require a follow up report every 30 days until the case status is placed in one of the following categories: Inactive, Closed, Cleared by Arrest or Cleared Other.

Arson Procedure Bulletin



Bulletin #16 Revised 2/2/16

Officer Involved Shootings & Use of Force

As per the letter of agreement between the Los Angeles Fire Department and Los Angeles Police Department, dated January 7, 2013 (See addendum), the Los Angeles Police Department will investigate any incident in which a Fire Department Arson Investigator has discharged their firearm (causing a gunshot wound to be inflicted on any person), or when a Fire Department Arson Investigator receives a gunshot wound. The investigation will be conducted following Police Department procedures.

This procedure will also be utilized for Law Enforcement Activity-Related Deaths (LEARDS), deaths of persons in the Arson Counter Terrorism Section's custody or control where some degree of force was used by Arson Investigators to restrain the person and/or place the person under arrest.

It is agreed that the Fire Department Arson Investigators shall adhere to the Police Department's policies on the use of firearms, the use of force, and the officer-involved shooting investigation procedures.